

So Ordered.

Dated: July 13th, 2017



Frederick P. Corbit

Frederick P. Corbit
Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In Re:

Kennewick Public Hospital District,
Debtor.

Case No. 17-02025-9

ORDER CONFIRMING
PROTECTIONS OF SECTIONS
362, 365, AND 922 OF
BANKRUPTCY CODE

Upon the motion (the “Motion”)¹ of Kennewick Public Hospital District, a Washington public hospital district (d/b/a Trios Health) (the “District” or “Trios”) and the debtor in the above-captioned chapter 9 case (the “Chapter 9 Case”), for entry of an order, pursuant to section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”), confirming the protections of sections 362, 365, and 922 of the Bankruptcy Code; and upon the Cudworth Declaration; and it appearing that this Court has jurisdiction over this

¹ Capitalized terms used but not otherwise defined herein shall have the meanings as ascribed in the Motion.

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1 matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this
2 proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it
3 appearing that venue of this proceeding and the Motion in this Court is proper
4 pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion appearing
5 adequate and appropriate under the circumstances; and the Court having found that
6 no other or further notice is needed or necessary; and the Court having reviewed
7 the Motion and the Cudworth Declaration and having heard statements in support
8 of the Motion at a hearing held before the Court (the “Hearing”); and the Court
9 having determined that the legal and factual bases set forth in the Motion and at the
10 Hearing establish just cause for the relief granted in this Order; and it appearing,
11 and the Court having found, that the relief requested in the Motion is in the best
12 interests of the District, its creditors, and other parties in interest; and any
13 objections to the relief requested in the Motion having been withdrawn or
14 overruled on the merits; and after due deliberation and sufficient cause appearing
15 therefor, it is hereby **ORDERED** that:

16 1. The Motion is GRANTED.

17 2. Pursuant to section 362(a) of the Bankruptcy Code, and subject to any
18 exceptions thereto or other rights or defenses a party may have under applicable
19 law, including the Bankruptcy Code, all persons (including individuals,
20 partnerships, corporations, limited liability companies, and all those acting for or
21 on their behalf), all foreign or domestic governmental units, and all other entities

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1 (and all those acting for or on their behalf) are hereby stayed, restrained, and
2 enjoined from:

- 3
- 4 a. commencing or continuing any judicial, administrative, or other
5 proceeding against the District, including the issuance or
employment of process, that was or could have been
commenced before the District's Chapter 9 Case was
commenced;
- 6 b. enforcing, against the District or the District's property, any
judgment obtained before the District's Chapter 9 Case was
commenced;
- 7 c. recovering a claim against the District that arose before the
commencement of its Chapter 9 Case;
- 8 d. taking any action to obtain possession of property of or from
the District;
- 9 e. taking any action to create, perfect, or enforce any lien against
property of the District, to the extent that such lien secures a
claim that arose before the commencement of the District's
Chapter 9 Case;
- 10 f. taking any action to collect, assess, or recover a claim against
the District that arose before the commencement of its Chapter
9 Case; and
- 11 g. offsetting any debt owing to the District that arose before the
commencement of its Chapter 9 Case against any claim against
the District.
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19 *See 11 U.S.C. § 362(a).*

20 3. All entities, including all persons and foreign and domestic
21 governmental units, and all those acting on their behalf, including sheriffs,
22 marshals, constables, and other or similar law enforcement officers and officials

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1 are stayed, restrained, and enjoined from in any way seizing, attaching, foreclosing
2 upon, levying against, or taking any action to obtain possession or control over any
3 and all property of the District, wherever located.

4 4. Pursuant to section 922(a) of the Bankruptcy Code, and subject to any
5 exceptions thereto or other rights or defenses a party may have under applicable
6 law, including the Bankruptcy Code, all persons (including individuals,
7 partnerships, corporations, limited liability companies, and all those acting for or
8 on their behalf), all foreign or domestic governmental units, and all other entities
9 (and all those acting for or on their behalf) are hereby stayed, restrained, and
10 enjoined from:

- 11 a. commencing or continuing a judicial, administrative, or other
12 action or proceeding against an officer or inhabitant of the
13 District, including the issuance or employment of process, that
14 seeks to enforce a claim against the District; and
- 15 b. enforcing a lien on or arising out of taxes or assessments owed
16 to the District.

17 *See 11 U.S.C. § 922.*

18 5. For the avoidance of doubt, the protections of section 922(a)(1) of the
19 Bankruptcy Code with respect to officers and inhabitants of the District, as set
20 forth in paragraph 4(a) above, apply in all respects to the officers of the District, in
21 both their official and personal capacities with respect to actions whereby parties
22 pursuing such actions seek to enforce claims against the District.

23 6. Pursuant to and solely to the extent provided by section 365 of the
24 Bankruptcy Code, and subject to the other provisions of the Bankruptcy Code, all

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1 persons (including individuals, partnerships, corporations, limited liability
2 companies, and all those acting for or on their behalf), all foreign or domestic
3 governmental units, and all other entities (and all those acting for or on their
4 behalf) are hereby prohibited from modifying or terminating any executory
5 contract or unexpired lease of the District, or any right or obligation under such
6 contract or lease of the District, at any time after the commencement of the
7 District's Chapter 9 Case solely because of a provision in such contract or lease
8 that is conditioned on:

- 9 a. the insolvency or financial condition of the District at any time
10 before the closing of the District's Chapter 9 Case; or
- 11 b. the commencement of the District's Chapter 9 Case.

12 *See 11 U.S.C. § 365(e)(1). For the avoidance of doubt, the protections of*
13 *Bankruptcy Code section 365(e)(2) shall continue to apply in all respects.*

14 7. Pursuant to and solely to the extent provided by sections 362 and 365
15 of the Bankruptcy Code, and subject to the other provisions of the Bankruptcy
16 Code, the District's counterparties to any executory contract or unexpired lease
17 shall continue to perform their obligations under such contract or lease until such
18 contract or lease is assumed or rejected by the District or otherwise expires by its
19 own terms.

20 8. Nothing in this Order shall affect the substantive rights of any party.
21 Nothing in this Order shall affect the exceptions to the automatic stay contained in
22 sections 362(b) and 922(d) of the Bankruptcy Code or the right of any party in

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1 interest to seek relief from the automatic stay in accordance with section 362(d) of
2 the Bankruptcy Code.

3 9. In no event shall this Order be interpreted as modifying, expanding, or
4 eliminating the terms of the Bankruptcy Code or imposing any restriction on
5 parties in interest other than as set forth in the Bankruptcy Code, nor shall the entry
6 of this Order modify, expand, or alter any party's liability for any violation of the
7 Automatic stay that such party would have incurred had this Order not been
8 entered.

9 10. Notwithstanding any applicability of any of the Federal Rules of
10 Bankruptcy Procedure, the terms and conditions of this Order shall be immediately
11 effective and enforceable upon its entry.

12 11. The Court shall retain jurisdiction to hear and determine all matters
13 arising from or related to the implementation, enforcement, or interpretation of this
14 Order.

///END OF ORDER///

17 PRESENTED BY:
FOSTER PEPPER PLLC

19 By: /s/ Jack Cullen
Jack Cullen, WSBA #7330
20 Bryan Glover, WSBA #51045
Andy Morton, WSBA #49467
21 Ella Vincent, WSBA #51351
*Attorneys for Debtor Kennewick
22 Public Hospital District*

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